Alexander John Owens will say:

1. I am over 21 years of age and my full personal and contact details are on a separate attachment. Between 1999 and 2005 I was the Senior Investigating Officer with the Information Commissioner's Office (ICO) based in Wilmslow.

2. Personal Background

2.1. In August 1965 at the age of 17 years I joined Liverpool City Police cadets and was subsequently appointed as a Constable in February 1967. I served with Liverpool City Police and Merseyside Police until October 1995 when I retired in the rank of Detective Inspector. During my service I performed many duties both in Uniform and Criminal Investigation Department.

2.2. Following my retirement, in August 1997 I successfully applied for the position of investigator with the Data Protection Registrar's Office on a two year Fixed contract. It was my understanding that it was a fixed contract because a new Data Protection Act was being drawn up and it was unknown at that time whether or not criminal offences would be contained in the new Act. The new Act was due to come into force in March 2000. I was appointed to a permanent position in September 1999. In December 1999 I was appointed Senior Investigating Officer with special responsibility for the investigation of high profile or complicated investigations relating to breaches of the new Act.

2.3. At this time the department consisted of 7/ 8 regional investigating officers

dotted around the United Kingdom who worked on a zero hours contract.

2.4. There were two full time investigators based at Wilmslow plus myself as the Senior Investigating Officer, Ms Jean Lockett was the Head of Investigations and with overall command of the Investigations Unit (I.C.I.U.) was Francis Aldhouse, Deputy Commissioner.

2.5. Most of the work I did related to the investigation of what are referred to as Section 55 offences (unlawful obtaining / disclosing of information).

3. Operation Motorman

3.1. About September / October 2002 I was contacted by Devon and Cornwall Police who informed me they were conducting an investigation (Operation Re-proof). They were investigating the fact that certain retired / serving Police Officers from their Force were obtaining information from the Police National Computer (PNC) and selling it to a private detective agency based in the South London area (Data Research Ltd). It was their intention to execute a search warrant at the premises. They anticipated finding evidence, not only in relation to their own investigation but possibly into other offences this Company may have been involved. It was agreed that ICO would assist and advise and if anything else was found which fell outside the remit of Operation Re-proof ICO would take it on board and investigate.

3.2. On 11th /12th November 2002 in company with Investigator Steve Gazzard

(ICO) Regional Officer based in South West England we accompanied officers of Devon and Cornwall Police whilst they conducted a search of Data Research Ltd.

3.3. During the search I noticed some bundles of documents on the top of one desk and it appeared to me these documents related to long lists of Vehicle Registration Marks (VRM) that appeared to have been checked for the owners' personal details. I asked that these documents be seized by the Police. This was done and allocated the exhibit reference number P.S. 28. Whilst I was still on the premises I made telephone contact with the DVLA Swansea giving them the first 10/12 registration numbers asking if they had in fact been checked and if so when and by whom. Within about half an hour I received a response from DVLA informing me that all the numbers I had supplied them with had in fact been searched through DVLA records. The dates the searches had been done at DVLA corresponded exactly with what was on the list that had been seized and that the searches had all been done by the same DVLA employee. It was apparent that either directly or indirectly Data Research Limited had a corrupt source within DVLA who was unlawfully supplying them with information.

3.4. I was subsequently contacted by a senior member of DVLA management team Mr. Wilf Morgan who informed me that the employee concerned had immediately been suspended following my telephone call and asked that we liaise together on this matter, to which I agreed. I also faxed him the full bundle of documents I had seized to enable him to commence a full investigation at

DVLA in advance of our meeting.

3.5. Further examination of this bundle (PS 28) identified the fact that several hundred VRM's had been checked by Data Research Limited and the results subsequently sold on to several companies / individuals (about 10 in all).

3.6. Thus began 'Operation Motorman' the purpose of which was to identify all corrupt source(s) at DVLA as well as identifying the customers of Data Research Ltd who had commissioned the work to be done and their reasons.

3.7. My next step was to meet up with Mr. Wilf Morgan (DVLA) to consider a course of action. Mr. Morgan informed me that having checked the VRM's I had sent him, he had now identified a second source within DVLA who had been unlawfully disclosing information. This second source had in fact died in March 2002 (some nine months earlier) and was the former line manager of the initial source identified. During this meeting Mr Morgan received a telephone call from a female member of DVLA staff telling him that not only did she work in the same office as the deceased she actually shared a desk diary with him and that there were unusually long lists of VRM's contained in it. I arranged to take possession of this diary from this lady. I found scores of additional VRM's listed in the diary which were clearly relevant to the investigation.

3.8. One VRM in particular was of great concern to me because clearly written alongside it was 'Protected Number'. Having served within Special Branch during my Police service I knew this particular VRM must relate to a

very sensitive individual or operation within the Police. This was subsequently confirmed to me by the Metropolitan Police although I requested no details. My concern was such that I immediately referred to the original list (PS 28) seized and identified the person requesting the information in relation to this vehicle as Stephen Whittamore.

3.9. Stephen Whittamore immediately went to number 1 on my investigation list to be visited and interviewed.

4. Stephen Whittamore and the Press.

4.1. Whittamore was very quickly identified as a self employed private detective operating his own one man business from his home address in Hampshire.

4.2. On 8th March 2003 in company with four other ICO investigators I attended at the home of Whittamore in possession of a warrant to search. It was obvious by the volume and content of the documentation seized, Whittamore worked on a full time basis for numerous newspaper groups and journalists obtaining a variety of information for them. This ranged from 'previous convictions' (CRO checks), VRM checks, Ex directory telephone numbers, mobile phone numbers , telephone number conversions and even 'family and friends' lists.

4.3. Whilst no formal interview took place at that time, during the 5/6 hours the search was continuing Whittamore made it very to me that whilst he would

admit to his own wrong doing, under no circumstances would he say anything which would incriminate any member of the press. I was undecided as to whether this was because he feared the press or whether he anticipated some financial recompense in return for his silence. During the course of this search in addition to all the loose paperwork seized, four hardback A4 size notebooks were seized - the 'blue book', the 'red book', the 'green book' and the 'yellow book' which identified in detail the exact dealings he had with every newspaper and journalist and exactly what information they had requested him to obtain. The personal details of the people he used in order to obtain the information were also identified during this search. Other separate documents seized clearly identified Whittmore, over a number of years, had been paid a great deal of money for the information he had obtained and passed on.

4.4. A few days later upon my return to the office in Wilmslow I was able to update the Head of Investigations, Jean Lockett on our progress. An informal meeting was arranged with Richard Thomas (The Commissioner) and Francis Aldhouse (Deputy Commissioner and Head of Operations) to also update them. It was at this meeting that I was able, by using examples of the paperwork seized, to show ICO were in a position to prove that a paper chain existed right through from identified journalists working for named newspaper groups requesting information be obtained from a private detective who in turn used corrupt source(s) or 'blaggers' to obtain such information. We could also prove by way of the seized bills for payment and numbered invoices for

payments settled by the newspaper groups exactly how much money had been paid for each transaction and by and to whom it had been paid. Where the information involved such requests as Criminal Record checks, VRM details ex directory numbers, conversions and family and friends without any claim of 'public interest' we were in a position to prosecute everyone in the chain from the 'blagger' right up to the journalists and possibly even the newspaper groups.

4.5. It was at this point Francis Aldhouse with a shocked look on his face said 'we can't take the press on they are too big for us'. Richard Thomas did not respond he merely looked straight ahead appearing to be somewhat bemused by the course of action I was recommending. For my own part I remember thinking 'It's our job to take them or indeed anyone else on, that's what we are paid to do. If we do not do it then who does?'

4.6. At this point Richard Thomas thanked me for updating him and at the same time congratulated me and the team for a job well done.

4.7. Now started the laborious job of sifting through all the paperwork in detail and it was at this point Investigator Roy Pollitt who had only recently joined the Unit, but had been one of the searching officers, offered to assist me with the paperwork and the investigation itself. An offer I gratefully accepted.

4.8. We started by reading through and photo-stating every single document to

ensure the originals remained in pristine condition for Court purposes. After discussing what was the best course of action we decided it would be impossible to visit and interview every victim and therefore decided to select and interview as many victims as possible until we had a pool of about 25 / 30 prosecution cases with all the relevant paperwork showing what information had been requested by the press, how Whittamore used his associates to unlawfully obtain the information and how Whittamore then passed the information obtained back to the journalist for payment. Once 25/30 prosecution cases had been formulated we could then prosecute by way of an overall 'conspiracy to breach The Data Protection Act' incorporating all parties involved. To facilitate this course of action once we had finished photo-stating all the documents all the original documents were sent to an independent computer forensic company for all the information to be put on a database for ease of reference. Subsequently we received the finished disk and I arranged for a second copy to be made to be used as the working copy. The original was safely locked away.

4.9. Within weeks of commencing our work Roy Pollitt and myself were informed that we were not to make contact with any of the newspapers identified and we were not to speak to, let alone, interview any journalists. Despite our protests we were told this was the decision of Richard Thomas and that he would deal with the press involvement by way of the Press Complaints Council. It was at this moment we knew no journalist could or ever would be prosecuted in relation to our investigation. No journalist or

Newspaper Group was ever spoken to by anyone from the Information Commissioner's Investigations Unit in relation to Operation Motorman. We also now knew that one of the major questions that needed to be asked but could never be asked, let alone answered was 'Why did you want all these ex-directory / mobile / family and friend telephone numbers and most importantly what were you doing with them?'

4.10. All enquiries relating to the misuse of the PNC for the purposes of obtaining Criminal Records and / or VRM's (several had been identified as being requested after the DVLA source had been neutralised in November 2002) were handed over to the Metropolitan Police from which emerged Operation Glade.

4.11. In the circumstances we had now been instructed to restrict our investigation solely to those at the bottom of the pyramid i.e. those involved with corruptly supplying information or 'blagging' information.

4.12. During the course of the investigation we did consult with counsel on one occasion, although I cannot recall his name. He was in full agreement with the method of investigation we had decided upon and agreed that the best course of action, once the investigation had concluded, was by way of a 'conspiracy' charge against all involved.

4.13. Over the following months we interviewed some 50 / 60 'victims'

obtaining some 25 / 30 statements of complaint from them. All persons suspected of unlawful obtaining/ disclosing / blagging of personal data were identified and interviewed under caution enabling us to now put together the 25/30 prosecution cases we were seeking for the purposes of a 'conspiracy' prosecution.

4.14. Whilst the investigation was ongoing we received no feed back whatsoever as to what action was being taken in relation to the Press's involvement. On those occasions we did ask the question the only response we received was that 'Richard (the Commissioner) was dealing with it'.

4.15. By February 2004 we had concluded our investigation and handed over all the evidence gathered to the ICO Legal Department with our recommendations that all parties identified as being involved be jointly prosecuted for 'conspiracy to breach the Data Protection Act 1998'.

4.16. Our job now done we moved on to other matters. It was not until December that year (2004) that we heard any more about the matter. There now appeared some great urgency for myself and Roy Pollitt to provide additional and more comprehensive statements as soon as possible which took us into the New Year (2005) to finalise. In April 2005 we became aware that Whittamore had appeared before Blackfriars Court and had been given a Conditional Discharge. We had never been advised that the matter was due before the Courts. We were never given the opportunity to attend even though we had been the Investigating Officers and were never given any details of what had happened in relation to all

the other defendants we had anticipated would be jointly charged with Whittamore for conspiracy. As regards Richard Thomas and any dealings he may have had with the Press Complaints Council again we had been told nothing.

4.17. We also had the unanswered outstanding question relating to the remaining thousands of people who had never been told they had been a victim of crime having had their car checked, their ex directory telephone number unlawfully obtained, their private lists of family and friends sold to the Press and so on.

4.18. Through third parties we did hear that there had been some conflict between ICO legal team and the Crown Prosecution Service / Metropolitan Police and whilst it was clear to myself and Roy Pollitt something had gone drastically wrong with the prosecution case, it was just as clear we were never going to be told the full facts in relation to :

i. Allowing for the overwhelming and irrefutable evidence we had gathered and made available, what action, if any, did Richard Thomas (the Commissioner) or Francis Aldhouse (Deputy) take in respect of the involvement and conduct of the Press and their part in this criminal conspiracy.

ii. Why, after agreeing a course of action, endorsed by Counsel, that all other persons identified as being involved in unlawful activity be jointly prosecuted for conspiracy, was Whittamore the only one concerned in the Motorman investigation to be prosecuted and then only for a simple breach of the Data

Protection Act, when there were several others some of whom had already fully admitted, under caution, their involvement.

4.19. It was about this time, for reasons which have little or no relevance to the matters at hand, I decided I could no longer continue working within ICO and absented myself on the grounds of ill-health. I had no further involvement with any ICO matters until fourteen months later (September 2006) when I submitted my resignation in order to pursue a legal action through the Employment Tribunal on the grounds of constructive dismissal. This matter was in fact resolved to my satisfaction without the need for a Tribunal Hearing.

5. Following my departure.

5.1. Sometime in May 2006 through the post I received a copy of the report 'What Price Privacy' from an anonymous source. Attached was a short note informing me that page 27 item 6.8. would be of interest to me. I was not aware this documents had been published and certainly had not consulted with anyone about its publication whilst at ICO. I read item 6.8. and found Richard Thomas's explanation as to why no journalist was ever prosecuted both inaccurate and misleading, because as previously stated, it was on his own instructions that all journalists and newspapers had been ruled out of our investigation from the very outset. Irrespective of whether he considered this result a poor one or the best result he could have expected it would have been impossible to revisit and interview potential suspects 2 years after all the evidence had been made available and ignored. To my mind this explanation now being made 3 years after the evidence had become available was no more

than a deliberate attempt to hide the true facts from the public. The second publication 'What price privacy Now', I did not even know it existed until some two years later.

5.2. In August 2006 I did read about the Glenn Mulcaire arrest but gave little thought to the matter. I certainly never associated it with Operation Motorman. It was only as time went on over the following 2/3 years with more and more information emerging in the press did I start to take a serious interest in the concerns being raised, in the main by Nick Davies, from the Guardian Newspaper.

5.3. It now became apparent to me why all these journalists had wanted these telephone numbers mobile / ex directory / family and friends and what they had been doing with them. It was following the Guardian's revelation involving Gordon Taylor's settlement and the fact that it was not as had been stated 'a one off rogue reporter and a private detective' did everything become clearer to me.

5.4. It was now obvious the Metropolitan Police first investigation into Mulcaire had all the hallmarks of the decisions made in Operation Motorman whereby thousands of people were never going to be told that they had been a victim of crime and that no journalist (other than Clive Goodman) or newspaper group had ever been prosecuted.

5.5. In August 2009 I made contact with Nick Davies of the Guardian

Newspaper telling him what I thought and offering to give what help I could in his campaign for a full investigation into the true extent of phone hacking because I now felt that had Operation Motorman been allowed to conduct a full investigation at the time, including interviewing journalists then phone hacking could have been identified 2/3 years before the Mulcaire incident. I also felt very strongly that the thousands of victims identified in Operation Motorman also had a right to know they had been victims. After this I intended doing nothing further. That was until a subsequent television report programme incensed me and prompted me to change my mind.

5.6. In April 2011 I watched David Smith the Deputy Information Commissioner on a Panorama programme. In this programme he made a statement that no journalist was ever prosecuted *'because we didn't have the evidence that those journalists knew beyond all reasonable doubt that the information had been obtained illegally'*. This I knew was, not only inaccurate but also deliberately misleading. What David Smith had omitted to tell the public was, that there was overwhelming evidence to establish numerous prime facie cases against many journalists but the Investigations Unit had been stopped from gathering any further additional evidence, by the Commissioner himself. The Commissioner's instructions that no journalist could be spoken to had effectively put an end to any further gathering of evidence against them or any Newspapers

5.7. When the Commissioner gave his instruction that no journalist was to be

spoken to let alone interviewed by his investigators in relation to Operation Motorman there could be no doubt that irrespective of what evidence was already available or was capable of being discovered ICO had already made its decision that no journalist would ever be prosecuted. The Commissioner's subsequent explanation that no journalist was prosecuted on Counsel's advice to me is no more acceptable than the statement made by David Smith that there was insufficient evidence to prosecute any journalist.

5.8. In light of these statements I decided re-examine exactly what evidence had been available at the time and whether or not any more misleading or inaccurate information had been given to Parliament and the public by ICO.

5.9. I knew I was the only person who could do this because when leaving ICO in 2005 I had retained my own personal working copy of the Operation Motorman data base as I anticipated needing it for evidential purposes should I be forced to pursue a course of action via an Employment Tribunal.

5.10. By now I was aware of the existence of the second publication 'What Price Privacy Now'. and had seen the 'league table' contained in it, which had often been referred to and produced by members of the Culture, Media and Sports Committee during their questioning of various witnesses. When I saw this, even from my own recollection I knew it could not be accurate. When I examined more closely it was clear that the overall figures quoted had been grossly understated. Instead of there being 3757 enquires being made by journalists to Whittamore as stated I calculated there had been over 17000

such requests. I am aware that ICO have tried to explain this by stating that certain multiple enquiries were grouped as a single enquiry. I do not know what criteria ICO adopted when formulating this league table, but no criteria can justify the discrepancies relating to the figures listed against each individual newspaper.

5.11. To give a few examples one only has to look at the figures for the Sunday World which is bottom of the league and is quoted as having one journalist who made one enquiry. The evidence indicates this one journalist in fact made 24 requests for information from Whittamore and there is no way these 24 requests could be defined as a single request. The true figure would have moved the Sunday World to mid-way in the table on a par with the Sun and Closer Magazine.

5.12. The combined figures for the Sport newspapers (Daily and Sunday) show Five journalists having made a total of 77 requests for information from Whittamore. The evidence I have shows that one of the journalists identified as working for the Sport newspaper had personally made over 220 requests to Whittamore for information. This figure alone would have put the Sport near the top five on the table.

5.13. The figures published for the Sunday Times shows one reporter making 4 requests, when the evidence shows 6 reporters making over 100 requests

5.14. The Evening Standard is credited with one journalist having made 130 requests when the evidence available shows the only journalist listed for this Newspaper made over 280 requests for information.

5.15. The list goes on and these are only a few examples, there are many more. As I examined this league table and compared it with the evidence available the more I was believing that many of these figures must have simply been plucked out of thin air.

5.16. ICO have stated these figures were disclosed in response to Freedom of Information requests so one would expect them to be accurate or as near as accurate as possible. ICO have repeatedly refused to disclose the full findings of Operation Motorman to anyone including the members of the Culture, Media and Sports Committee so no-one has ever been in a position to verify the accuracy of the figures published in 'What price privacy now'.

5.17. I have already conceded I do not know the criteria adopted by ICO for formulating these figures and I certainly have no professional expertise in drawing up tables of this nature. My method of calculation has been a simple layman's method but I do feel that the evidence should be independently and professionally analysed because these figures have now been almost written in stone and have been quoted time and time again and are accepted as accurate, without question. If I am mistaken then I will accept that. If I am correct then

that is a matter for others to consider. Either way it is my wish to hand over my copy of the Motorman data base to the Leveson Inquiry for this purpose and will explain its contents further if required.

5.18. In conclusion I would summarize by saying it is my opinion that:

a. ICO's decision not to investigate any journalist in relation to Operation Motorman was a wrong decision.

b. This decision was certainly not based on any advice given by counsel or on any lack of evidence, as ICO would have everyone believe. The decision had been made long before the involvement of any Counsel or opinions being requested and there was overwhelming evidence that many of the journalists did know or at least should have known the information they were requesting could only be obtained illegally and what they were requesting was not for a purpose which would carry any form of 'public interest' defence.

c. The decision not to pursue any journalist was based solely on fear - fear of the power, wealth and influence of the Press and the fear of the backlash that could follow if the press turned against ICO.

d. The publication in May 2006 of 'What price privacy' was no more than an attempt to lock the stable door after the horse had bolted in an effort to cover up the fact that ICO had failed in its duty to conduct a full and proper investigation into the conduct of journalists at the time when they

could and should have.

Throughout the whole of the time the Motorman investigation was on going there was never any mention or suggestion of any report being commissioned for Parliament. I feel it was no coincidence that this report was not published until May 2006 , only a few weeks before the Mulcaire scandal broke. It is my belief that when ICO became aware that the Metropolitan Police were conducting yet another investigation involving more wrong doings by the Press, they decided to pre-empt and deflect any criticism which was bound to be directed towards them in relation to their lack of action against the Press in Operation Motorman.

All the evidence published in this report had been gathered and had been available since March 2003, so if as David Smith stated, again in the Panorama Report, ICO wanted to send *'an effective and final warning'* then why did it take over three years to prepare it, and not publish it until 13 months after the prosecution against Whittamore had concluded.

e. I feel I have fully outlined my concerns in relation to the accuracy of the information contained in the ICO follow-up report 'What price privacy now'.

Statement of Truth

I believe the facts stated in this witness statement are true

Signed.....

Dated.....12/11/11.....